

REMARKS

Claims 1-14 are pending in the present application. Claims 1-7 and 9 have been amended. Claims 10-14 have been added.

The title, abstract, specification and claims have been amended to delete the term "push-in" since the suture anchor of the present invention is actually driven into a hole in bone with a mallet (see paragraph [0037] of the specification). Although the phrase "push-in" is a term of art to distinguish suture anchors that are driven into bone from those that are screwed into bone (i.e., threaded suture anchors), the term "push-in" could be confused with the term "press-in" by one not skilled in the art. The suture anchor of the present invention is clearly not "pressed" into bone.

Claim 8 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,827,291 to Fucci et al. This rejection respectfully is traversed.

Claim 8 recites a placation driver that includes, *inter alia*, a recess formed in the distal end of the shaft, and a slot formed in a wall of the shaft, the slot being *continuous with the recess* formed in the distal end of the shaft. These features are not taught by Fucci et al. The Office Action equates implant retaining portion 14 disclosed by Fucci et al. with the recess recited in claim 8 of the present application. Implant retaining portion 14 is formed distally on the instrument disclosed by Fucci et al.. The slot 77 taught in Fucci et al. is formed on the proximal end of the handle. The slot 77 disclosed by Fucci et al. is not *continuous* with recess 14 located at the opposite end of the instrument. Fucci et al. does not anticipate the present invention as recited in claim 8.

Claims 1-6 stand rejected under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 6,641,597

to Burkhart et al. in view of U.S. Pat. No. 5,964,783 to Grafton et al. or European Patent Application EP 0 916 312 to Grafton et al. Applicants respectfully traverse this rejection.

Burkhart et al. is not prior art to the present application under 35 U.S.C. § 102(e). The earliest date relied upon for priority by Burkhart et al. is the May 25, 2001 filing date of provisional application No. 60/293,170. The present application claims priority based on, *inter alia*, provisional application No. 60/271,414, which has an earlier filing date of February 27, 2001. Thus, Burkhart et al. was not “filed...before the invention by the applicant for patent.” Withdrawal of this rejection is requested.

Claim 7 stands rejected under 353 U.S.C. § 103(a) as being unpatentable over Burkhart et al. in view of Grafton et al. ‘312 or Grafton et al. ‘783, and further in view of Fucci et al. This rejection respectfully is traversed.

As noted above with respect to claims 1-6, Burkhart et al. is not prior art to the present application under 35 U.S.C. § 102(e). Moreover, the subject matter of Burkhart et al. was, at the time the invention was made, owned by or subject to an obligation of assignment to the same company, Arthrex, Inc., as the claimed invention of the present application. Burkhart et al. therefore is not a proper § 103 reference pursuant to § 103(c) and provides no basis for a rejection under 35 U.S.C. § 103(a). Withdrawal of this rejection is requested.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fucci et al. in view of Burkhart et al., Grafton et al. ‘312, or Grafton et al. ‘783. Applicants respectfully traverse this rejection.

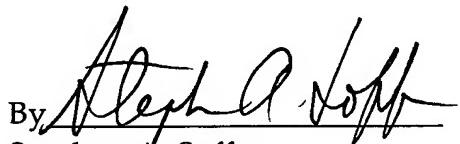
As stated in the Office Action, Fucci et al. does not disclose an insert-molded ribbed suture anchor as recited in amended claim 9. The three secondary references do not cure the deficiencies of Fucci et al. Burkhart et al. is not prior art to the present application. Grafton et al. '312 and '783 disclose *threaded* suture anchors, not *ribbed* suture anchors. Claim 9 is patentable over the cited reference to Fucci et al. taken alone or in combination with Burkhart et al., Grafton et al. '312, or Grafton et al. '783.

New claims 10-14 have been added. Claim 10 depends from claim 9, and is patentable for at least the same reasons. Claims 11-14, drawn to a plication driver, are submitted as patentable over the cited prior art.

In view of the above amendment, applicants submit that the pending application is in condition for allowance.

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